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not cancelled. But the Central Co-operative Stores, Vizianagram, has entered into another agreement with Sri Suryaprakasa Rice and Oil Mills, Vizianagram.

- (f) The yield of rice is 71·68 per cent in Venkateswara Mills and 71·56 per cent in Sri Suryaprakasa Mills. But in the case of Nagore paddy hulled by the Venkateswara Mills the percentage is 70·97.

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

GOVERNMENT BILLS.

II.—THE MADRAS TRADE DISPUTES ADJUDICATION (TEMPORARY PROVISION) BILL, 1946, AS PASSED BY THE LEGISLATIVE ASSEMBLY.

* THE HON. SRI V. V. GIRI :—“ Mr. President, Sir, I beg to move—

‘ that the Madras Trade Disputes Adjudication (Temporary Provision) Bill, 1946, as passed by the Legislative Assembly be taken into consideration at once.’

Sir, I do not propose to make a lengthy speech on this Bill. This is a temporary measure and for a temporary purpose to last, in the opinion of Government, not more than six months. This measure found a place in the Defence of India Rules and because on the 30th September those rules will lapse, this temporary measure has to be brought forward before this House. This enables Government to establish adjudication board in cases where trade disputes are not settled otherwise. Of course there is the Trade Disputes Act, 1926, which empowers the authorities to call into existence Boards of Conciliation and Courts of Enquiry. But the findings of such boards and courts are not binding on the parties but it is left to public opinion to persuade the parties to accept their decisions. My experience both as a Labour leader and a Labour Minister in the last Congress Government was that whenever a dispute occurred and courts and boards were established by Government, if the findings were unfavourable to a particular party, that party repudiated those findings. Speaking for myself, I believe in British trade union methods and I would personally rely on public opinion. I am loath to have compulsion in the matter of trade disputes and to compelling parties to bind themselves to a decision. But unfortunately in this country, trade unionism is still in an infant stage and employees are not educated in the real sense of the term and therefore it becomes necessary for some time to come—because of the recalcitrant party who does not agree to the findings of courts and boards, the recalcitrant party who for any reason or for no reason tries to create trade disputes—to take advantage of adjudication and try to see that the dispute is settled, more often in the interests of the workers than in the interests of the employers. As I stated in the other House, the employer has a long purse and the employee has a short purse and if the employer simply allows a strike to continue indefinitely, while the industry might suffer the employer is rich enough to face the loss, the

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workers may suffer more. In my view, it is more in the interests of the workers to have a machinery of adjudication to get their disputes settled.

“ Take it from me, Sir, as I am personally against the idea of compulsory arbitration, the Government of Madras also would prefer internal settlement of disputes to external ones; our view is that the parties themselves should settle the disputes without any external intervention, whether it is of Government, boards or courts or adjudication. Therefore, while we will leave it to the parties to settle their disputes internally, when that fails or is about to fail, the Government will step in and direct the conciliation officers and the Labour Commissioner to take a hand and try to use their good offices to settle the disputes; when that fails, we think of boards and courts and also adjudication whenever it becomes necessary in the interests of the industry. No doubt in the other House certain amendments were sought to be made and latterly withdrawn. Certain very good amendments and very good suggestions have been put forward by esteemed members on the other side. I do not want to go into all that happened in the Select Committee because it is not open to us to discuss it here. I may tell hon. members here that this is a temporary measure and the Government intend at the earliest opportunity to have a comprehensive measure dealing with trade disputes, recognition of unions, standing orders and various other things that deal with conditions of labour. Therefore I suggest that the amendments sought to be moved here may as well be brought forward when the comprehensive bill comes up for discussion. Somebody felt that most probably we are burking this question and are trying to evade issues being raised when they are relevant. Sir, they will be relevant when the comprehensive bill comes up; we shall have time enough then to go into details on all the matters and come to conclusions so that we may incorporate them in the comprehensive measure. While it is a fact that the Government of India and the Provincial Governments have concurrent jurisdiction in matters of labour legislation, I have always said and I believe even to-day that so far as labour legislation is concerned it is desirable that it should be uniform through the length and breadth of India. I am glad to say that the present Central Cabinet of India seems to be of that view also and I have received a communication from the Hon. Member in charge of Labour, the Hon'ble Sri Jagjivan Ram, that he would like to have a conference of Provincial Ministers to discuss this very important measure, namely, the Trade Disputes Bill and if really the Government of India and the Provincial Governments can come to a common understanding as to the form and the shape of the Bill, we may even agree to an all-comprehensive measure. It all depends upon the nature of the discussions that may take place at that Conference. Anyway, take it from me that we intend to bring in a comprehensive measure to deal with all these matters in one single Bill and, therefore, I think the explanation I am putting forward is sufficient to enable this House to pass this legislation as it is, because I am absolutely certain that within the course of a few months a comprehensive legislation will come into effect.”

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* SRI B. BHIMA RAO :—“ On a point of order, Sir, may I know whether there is a notification under section 104 of the Government of India Act authorizing the Provincial Legislatures to enact such laws? I will make my meaning clear, Sir. My hon. Friend is introducing legislation corresponding to rule 81 (a) of the Defence of India Rules framed by the Government of India under the Defence of India Act. Sir, after the commencement of the war, the Government of India felt that in order to have a proper defence of the country and ensure proper supplies, such a rule should be framed. The Governor-General declared a state of emergency under section 102 of the Government of India Act and thereafter framed rules under the Defence of India Act. Rule 81 (a) corresponds to the present Bill sought to be introduced by my Hon. Friend, Mr. Giri. Sir, those rules were justifiable so long as the emergency lasted. It is my opinion that the emergency will last for probably a year more. Hence on a point of merit, I say that it is necessary that there should be legislation of this sort in regard to settlement of disputes, in regard to house rent control and with regard to control of essential articles which is sought to be introduced by Hon. Prime Minister. I am in agreement with regard to the necessity and urgency of this legislation. But what I say is, when the emergency continues even now—though the war has terminated peace is not in sight and the clouds of war are again threatening in the horizon—when it is so, it is necessary that the Governor-General should declare that the emergency should last for a year more from 1st October 1946. Fortunately for us, we have a responsible Government at the Centre now. What I suggest is that the Hon. Prime Minister and Mr. Giri might run up by air to Delhi and see that some declaration is made so that all these control orders may continue. There are nearly 80 to 100 control orders promulgated by the Provincial Government during the time we were out of office and the same number by the Government of India called the All-India control orders. Now what is sought to be done is to compress the entire body of these control orders nearly 100 in number into three pieces of legislation, one the Trade Disputes Act, another the Essential Articles Act and the third Requisitioning of Buildings Act. I submit that these Provincial Legislatures are not competent to enact these as normal laws. These subjects do not come under any of those lists, either the Federal list on which the Federal Legislature alone is competent to enact laws, or under the Provincial list, or the Concurrent list in the Government of India Act on which the Provincial Government is entitled to enact laws.”

* THE HON. SRI V. V. GIRI :—“ It is in the Concurrent List.”

* SRI B. BHIMA RAO :—“ The subject ‘ trade disputes ’ does not come in any of these lists.”

* MR. PRESIDENT :—“ What is the hon. Member's opinion? 11-45
Can it come under any of them? ” a.m.

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* SRI B. BHIMA RAO :—“ ‘ Trade and Commerce ’ is mentioned in that list but trade disputes is apart from trade and commerce. That is my contention. Section 104 of the Government of India Act reads thus—

‘ The Governor-General may by public notification empower either the Federal Legislature or a Provincial Legislature to enact a law with respect to any matter not enumerated in any of the Lists in the Seventh Schedule to this Act, including a law imposing a tax not mentioned in any such list, and the executive authority of the Federation or of the Province, as the case may be, shall extend to the administration of any law so made, unless the Governor-General otherwise directs.’

I submit it is within the cognizance of all members of this House that the Trades Disputes Act which was passed in the year 1929 is still law; and when that is so, you want to enact a law like this on a subject which is not expressly mentioned in the schedule. Probably my learned friend will say that under the expression ‘ trade ’ ‘ trade disputes ’ also is included. I submit, Sir, it is not a correct interpretation of the Act. When so much trouble was taken by Parliament to enact the Government of India Act, if they wanted to include trade dispute also under the category of ‘ trade ’, they would have specified ‘ trade disputes including strikes and lock-outs.’ That is however not the case. So, there is a condition precedent to our going on with the enactment at present, viz., the notification by the Governor-General permitting the enactment of such a law. Otherwise, we shall be creating a lot of litigation in the courts which it must be our duty to avoid. I only want to bring to your recollection the nature of the remarks passed by the High Court on the Madras Agriculturists’ Relief Act which we passed in a hurry, sitting till midnight on one occasion. We must have in view those remarks. After all, Sir, there is still time left till the 30th of September and the formality can be complied with. We can adjourn for a fortnight, meet again on the 28th or 29th and pass all these measures, which I also consider absolutely necessary. And if the Governor-General should say that the set of rules and control orders passed under the Defence of India Act and also by the Provincial Government would remain intact for a year more, all this difficulty will disappear. I do not know, Sir, why the Ministry did not take steps in this direction. It is very easy, especially after the 2nd of September, to see that the state of emergency is declared once again for a year longer; and there will then be no necessity for us to enact such laws as these. So, Sir, my suggestion is that the Ministry might move in the direction that I have indicated; and if the Governor-General does not come to the rescue—I believe he will come to our rescue because similar conditions prevail in the whole of India—and if it is necessary that normal law should be enacted, he will certainly empower the Federal Legislature instead of each of the Provincial Legislatures enacting such laws, to pass such laws, and thus there will be necessity for us to pass this legislation. So, I suggest these measures may be adjourned for consideration after a fortnight more and then taken up.”

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* DR. V. K. JOHN :—" I am glad, Sir, the Hon. Minister has recognized that it is . . . "

* MR. PRESIDENT :—" Are you speaking on the point of order? "

* DR. V. K. JOHN :—" No, on the Bill."

* MR. PRESIDENT :—" We are now on the point of order. I should like to hear the Government view."

* THE HON. SRI K. BHASHYAM :—" Mr. President, Sir, I am really surprised that this objection has come from the quarter from which it has come. I may also state that my friend has not been quite clear as to what objection he has to the object of this legislation. Evidently, he overlooked the fact that apart from the term 'trade and commerce' being included in the Provincial list, there are also in the concurrent list three items: one is '26. Factories', the second is '27. Welfare of labour, conditions of labour, provident funds, etc.', and the third is '28. Unemployment insurance.' And there is a still further item '29. Trade unions, industrial and labour disputes.' There is specific provision made including all these matters under Part II of List III of the Seventh Schedule. Therefore, it is certainly within the Province of this Provincial Legislature to legislate upon this subject. It may be that this legislation will have to be reserved for consideration by the Governor-General, and that will be done. So, the objection that it is *ultra vires* of this Legislature to take up this matter is wholly without foundation."

SRI P. R. K. SARMA :—" On the point of order raised by my friend . . . "

* MR. PRESIDENT :—" No, you cannot speak again now please. I rule that this Bill is within the competence of this Government to take up. I agree with the Government that either under item 27 of the Provincial list or under items 26 to 29 of the concurrent list, this subject is within the competence of this House to go into. I do not think the other points raised are relevant or need be gone into. Section 104 of the Government of India Act which the hon. Mr. Bhima Rao was referring to, will come into operation only if the Governor-General holds that the Provincial Government is not competent to go into this question. 'To enact a law with respect to any matter not enumerated in any of the lists in the Seventh Schedule'—that is what it says. I do not think it is necessary to go to the Governor-General and ask for a notification under section 104. As regards the question of the continuance of the state of emergency and going up to the Government of India for the re-issue of rules under the Defence of India Act, I do not think even that need be done. When the House is competent to legislate upon the matter, there is no necessity to ask for any notification or for rules under the Defence of India Act. I therefore rule out this point of order and allow the discussion to go on."

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* DR. V. K. JOHN :—“ May I now speak on the principles of the Bill, Sir? ”

* MR. PRESIDENT :—“ Yes.”

* DR. V. K. JOHN :—“ I am very glad, Sir, that the Hon. Minister has introduced a Bill to regulate trade disputes. The main principle underlying all legislation regarding trade and trade disputes is that it is not in the interests either of the employer or the employee that the Government should exercise compulsion. Sir, it was on that principle that the Trade Disputes Act of 1929 was passed, and it deals with courts of enquiry and boards of conciliation, but there is no section which enables the Government of a contrary to put compulsion or pressure or to pass executive orders for the guidance of either the employer or the employee. It is really the duty of the Government to constitute a court of enquiry or a board of conciliation, but it is not in the interests of either the employer or the employee or the public that the Government should use compulsion. Sir, in an emergency like the last war, the Government took power to exercise compulsion. But the Central Government waited till the 1st January 1942. We did not find that compulsion in the Defence of India Rules till the 1st January 1942 when section 81-A was enacted. But section 81-A is confined to maintenance of the essential supplies. It is limited to certain emergency mentioned in that section. The Hon. Minister said : ‘ I am only introducing now a Bill which takes in the provisions of the Defence of India Rules which will expire by the end of this month.’ Actually, Sir, it is not so. If you look at clause 3, sub-clause (b), you find the Government want to take power, by general or special order, ‘ for requiring employers, workmen or both to observe for such period such terms and conditions of employment as may be specified in the order.’ I can understand sub-clauses (c) and (d) providing for referring any trade disputes ‘ for conciliation or adjudication in the manner provided in the order ’ and ‘ for enforcing for such period as may be specified in the order all or any of the decisions of the authority to which a trade dispute has been referred for adjudication.’ That would be quite proper in an emergency, you refer a matter, for conciliation, and if the parties do not accept the decision of the conciliator, you refer the matter for adjudication and then enforce the order passed by the adjudicator. That is what the Defence of India Rules provide and they provide only for the purpose of defence, for maintaining essential supplies and the life of the community. Here the Minister wants to refer any matter, whether there is any emergency or not, whether the conditions prescribed by rules under 81-A are satisfied or not, he wants to refer any matter for conciliation and adjudication. I say, let us agree to that, because in a matter which goes before an adjudicator, he will be functioning as a judicial officer, he will be hearing both the parties, taking evidence and then coming to a conclusion. If the Hon. Minister finds that such a power is required after the war is over, let us give it. But, sub-clause (b) of clause 3 provides that they may by general or special order require

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'employers, workmen or both to observe for such period such terms and conditions of employment as may be specified in the order.' It is a very tall order, Sir, and it will be too much to ask the Legislature to give such power. We do not know what the nature of those orders will be. Personally speaking, I have confidence in Mr. Giri and many others have confidence in him; but we are passing a legislation, an enactment not only for the benefit of a particular minister. The Government may do anything, and we should not give to the executive such wide powers especially as such powers are not given by the Defence of India Rules now. My real objection is that there is no provision anywhere for such orders requiring employers, workmen or both to observe certain terms and conditions of employment, after giving an opportunity to the parties concerned, to explain the position. They must be given an opportunity before orders are passed. Again, Sir, look at clause 9; it says:

* If any person contravenes any order made under this Act, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to rupees two thousand or with both.'

"Sir, three years' imprisonment is provided as a punishment for disobeying an order passed by the Government without any explanation being asked of the party against whom orders are passed. Sir, that is interfering with the liberty of the subject."

12 noon.

* MR. PRESIDENT:—"Is the wording deals with punishment without explanation?"

* DR. V. K. JOHN:—"No, Sir. An order may be passed without giving an opportunity to the party to give an explanation why such an order should not be passed. If an order is passed arbitrarily, then the prestige of the Government will come in. I can understand an order however illegal, however arbitrary and however harsh it may be, if an opportunity is given to the party to explain why an order should not be passed. I want an assurance from the Hon. Minister that he will not pass orders without giving an opportunity to the parties concerned to explain why such an order should not be passed."

THE HON. SRI T. PRAKASAM:—"No Government will pass such an order without notice."

* DR. V. K. JOHN:—"Now, Sir, the proviso to section 3 reads—

'Provided that nothing contained in clause (a) shall apply to a strike which is not illegal under section 16 of the Trade Disputes Act, 1929; any trade dispute in furtherance of which any such strike is threatened or has taken place may be referred by the Provincial Government for adjudication. On such reference to adjudication the Government may issue an order prohibiting the strike in connexion with the said dispute.'

"Section 16 of the Trade Disputes Act, deals with illegal strike and lock-outs and provision is made in section 17 to the effect that if a person declares, instigates, incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under the provisions of section 16, he shall be punishable with simple imprisonment which may extend to three months, or

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with fine which may extend to two hundred rupees or with both. What is provided by the Indian law is three months' imprisonment for taking part in an illegal strike and an illegal strike is one which has any object other than the furtherance of a trade dispute within the trade or industry in which the strikes or employers locking out are engaged; and is designed or calculated to inflict . . .

"Now, Sir, the word used is 'and', section 16 (1) (b) of the Trade Disputes Act says—

'(b) is designed or calculated to inflict severe, general and prolonged hardship upon the community and thereby to compel (any Government in British India, the Federal Railway Authority or the Crown Representative) to take or abstain from taking any particular course of action.'

Now, Sir, for a strike which is illegal under section 16 of the Trade Disputes Act of 1929, the punishment provided is three months' imprisonment. There is no object in making a provision in this Act for a strike which is made illegal by the Imperial Act. That is redundant. The real object of enacting section 3 (a) proviso, is to ask for imposing the penalty coming under section 9, that is, three years. It may be, there may be trouble from the Communists or there may be employers who are not amenable to conciliation, but to go beyond what is provided in the Imperial Act is to provide something repugnant to the provisions of that Act. Now, Sir, I do not agree with Mr. Bhima Rao that this Bill cannot be introduced in this House.

"Then, Sir, section 107 of the Government of India Act provides that if there is a provision made in an enactment made by the Provincial Legislature on a subject, which is included in the Concurrent Legislative List—and this is item 29 in the Concurrent Legislative List—if there is a provision which is inconsistent with the Act, then it is void. Of course, there is a proviso that the Act must have the assent of the Governor-General. I understood the Hon. Minister Bhashyam to say that action will be taken under section 107 (2). But the point I am emphasizing is, is there any need for providing for three years' punishment when the Indian Law provides for three months. Can you be satisfied with that? Government want to have power without seeking the explanation from the subject and they went to pass arbitrary order. They want power for all that. If an order is disobeyed, you are to be punished with three years' imprisonment. I say, Sir, there is no such emergency at all. They could very well have applied the penalty provided for in section 17 of the Trade Disputes Act, if a person takes part in a strike which is declared illegal under section 16. Section 3 proviso, says—

'Provided that nothing contained in clause (a) shall apply to a strike which is not illegal under section 16 of the Trade Disputes Act, 1929;'

Now, sub-section (1) of section 3 of the Bill is not to be applied to any strike which is not made illegal by the Trade Disputes Act. Then why should we now pass an enactment providing for three years' imprisonment, instead of three months, for contravening an order made by the Government. I ask, why such an order should be passed by Government prohibiting what is already

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prohibited? Government want power to prohibit strikes in connexion with trade disputes and what really the Government want is to prohibit by an order what is prohibited by the Indian Law. I do not know why there should be two prohibitions."

* THE HON. SRI V. V. GIRI :—" That relates to essential services, not to the ordinary disputes."

* DR. V. K. JOHN :—" That is not stated there."

* THE HON. SRI V. V. GIRI :—" If you read the Act, you will know."

* DR. V. K. JOHN :—" Now Sir, I submit that the penalty provided for disobedience of orders passed by Government has never been provided for in connexion with any legislation relating to trade disputes. Three years have been provided by the Defence of India Rules, but as I said, the Defence of India Rules have a very limited scope. The Hon. Minister is not correct in saying that he is trying to re-enact the provisions of the Defence of India Rules which expire at the end of this month. Let him re-enact word by word what is contained in the Defence of India Rules; he may take that power. The most objectionable section of this Act is section 3 (b). Of course everything else he may have, but his jurisdiction will be limited to the essential services and the maintenance of essential supplies. There is no war now nor is the defence of the country involved. Government are seeking to take very much more power than they really require, even though we have not got the same emergency; they are taking a power which they do not want; they are taking an arbitrary power and the Legislature should not grant it. I say, Sir, that the emergency in regard to labour disputes in this province is the same as in Bombay or Bengal or in any other province in this country. Why should we now move? When there is a Central Government, a National Government, they will immediately pass a measure that will be acceptable not only to Madras but to all other provinces. The real object of this Bill is to take an arbitrary power to do anything to require employers, workmen or both to do anything the Government like. I say it is asking too much and the Legislature ought to jealously watch the powers of the executive."

* MR. K. O. ANTHONI :—" Sir, I welcome this measure. I welcome this measure as one who stands for industrial peace in our province. I welcome this measure as one who realizes the value of industrial peace in promoting industrial progress. Dr. John has questioned the necessity for this measure. (Dr. V. K. John :—" Certain provisions in this measure.'). Dr. John is 'out-labouring labour', if I may say so. I am glad that he has appeared in a new robe as labour leader in some of the platforms recently. (Laughter.) Sir, I consider it quite necessary to have this temporary measure which has been purposely designed to get over this difficulty caused by the expiry of the Defence of India Rules on the 30th of September. I am not an expert in legal matters, but my reading of this Bill in comparison with the Defence of

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India Rules showed me that materially and substantially they are the same—I am subject to correction by the Hon. Minister). Dr. John asked: 'why while in the other provinces no such legislation has been brought in, it should be brought forward here.' "

* THE HON. SRI V. V. GIRI :—" It is not a correct statement of fact."

* MR. K. O. ANTHONI :—" Even granting it, Sir, my hon. Friend asks, why Madras should come forward with a legislation of this sort. May I draw the attention of Dr. John to the fact that unfortunately for this Province we are leading in industrial unrest to-day and for the last few months. We have seen during the past few months a wave of industrial strikes in our province. Well, Sir, if you examine the cause of these strikes, which have been engaging public attention to a very large extent during the past few months, I have no doubt that some of them were for the redressal of very legitimate grievances. But I am sure I am not exaggerating things when I say that some strikes have been declared for very trivial causes, some probably for the emotional satisfaction of the leaders and some others probably for achieving the ideological objectives of the leaders. I ask, how long is the community to suffer as a result of these strikes? I for one feel that it is time that we realized that it is not only the employer, it is not only the workers and the trade union leaders that are affected by these strikes, but the public at large also stand to suffer by any kind of strikes or lock-outs that are declared at the present time, whether these strikes or lock-outs are in Government or quasi-Government services or in private establishments. Where a textile mill is affected by a strike or lock-out, who can deny its consequences on the community at large especially in regard to the supply of cloth to the people? So, I should welcome every measure that the Government brings forward to prevent industrial strikes and to settle them, if unfortunately such strikes or lock-outs occur. I have not got exact figures of the strikes and lock-outs that have occurred during the past few months in our province but I am sure the Hon. Minister for Industries and Labour will bear me out, if I say that the loss of production and the inconvenience to the community at large are really staggering and every right-minded citizen, to my mind, should give his support to the Government when they come forward to prevent such colossal losses not only to the employers, not only to the community at large but to the workers as well.

" Sir, the Hon. Minister for Industries and Labour, the Hon. Mr. Giri, has been a great Trade Union Leader for the past nearly quarter of a century. I have myself been connected with the problem of industrial relations in my own humble way for nearly that period. We know that trade unionism was born in war and very rightly so. It was a protest against the injustice done by the 19th Century employer or capitalist. But in recent times, I think there has been a great change noticeable in industrial relations—I am not here holding any brief for employers who do not pay their due to their employees. There are employers, good,

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bad and indifferent just as there are workers good, bad and indifferent and leaders of workers good, bad and indifferent—and some of them dangerous too. (Laughter.) Well, Sir, the Hon. Minister for Industries and Labour has promised to bring in a comprehensive legislation. He has mentioned that he is going to bring forward a measure for the settlement of industrial disputes—I hate the words ‘Industrial dispute.’ The Hon. Minister, in explaining the scope of the contemplated legislation, has, however, said that he would be bringing forward a comprehensive measure that would relate to workers and their conditions of service and also to the prevention of strikes and settlement of disputes. Sir, I would like him to put emphasis on prevention rather on the settlement of strikes. We have got a rich heritage of experience from different countries by which this industrial warfare can be avoided with goodwill on both sides. I hope, the Hon. Minister, when taking up that legislation would devise measure to see that as far as possible industrial warfare is prevented and when they occur, they must be settled. **If emphasis is laid on prevention, then I submit, there will be no need for settling them.**

“There is one point, Sir, in this Bill which probably deserves the attention of the House. The Hon. Minister has already referred to it in general terms. He has anticipated the amendment which we, from this side of the House, would like to see incorporated in the Bill. As one who stands for industrial peace, I would like to say that lightning strikes should be avoided. Spectacular strikes have recently happened in our city and the Hon. the Minister for Industries and Labour and the Hon. Minister for Law know about them—not to speak of the Hon. the Premier, who has been considerably worried on account of the incidence of these strikes. I would like to see that some notice, as provided for in the Defence of India Rules, is given both by employers and by the workers before they declare a lock-out or a strike. A notice of fourteen days within a month prior to the strike or lock-out has been provided for in the rules.”

* MR. PRESIDENT :—“The hon. Member may speak on that when it comes.”

* MR. K. O. ANTHONI :—“I am speaking on the prevention of industrial strikes. I understand that my hon. Friend, Mr. Suryanarayana Rao will move an amendment to that effect and that I consider necessary in order to prevent lightning strikes and spectacular strikes. In bringing in this comprehensive labour legislation, I would have very much liked the Hon. Minister for Industries and Labour to have made a comprehensive survey of industrial relations in this Province. I think he has become a believer in one man’s enquiry nowadays.”

* MR. PRESIDENT :—“May I bring to the notice of the hon. Member that he is straying away from the principles of the present Bill? He should speak on the principles laid down in this Bill and not on the principles of the Bill that is yet to come.”

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* MR. K. O. ANTHONI :—“ I was only going to say that an expeditious enquiry by a committee of representatives of the parties concerned would certainly have been helpful.”

* MR. PRESIDENT :—“ I think the Hon. Minister has referred to some enquiry that is going on.”

* MR. K. O. ANTHONI :—“ In regard to the present Bill, Sir, I am just bringing it to your notice that the Hon. Minister referred to enquiries being made regarding conditions of service of some workers.”

* THE HON. SRI V. V. GIRI :—“ Sir, the hon. Member is referring to some other matters about the conditions of service with reference to different classes of workers in the industries.”

* MR. K. O. ANTHONI :—“ Sir, I was only suggesting an enquiry by competent people—I am not a believer in one man's shows, though I have got the greatest respect for the actual persons the Hon. Minister has appointed to make these enquiries. If such an enquiry had been made, it would have been better. I give my wholehearted support to the Bill which the Hon. Minister has brought forward.

“ With regard to the penal provision which Dr. John mentioned, I am yet to know of a case in which probably the penal provision under the Act of 1929 has been enforced. So, I do not think that Dr. John should worry very much on that score since this measure is going to be of a very short duration.”

SRI P. R. K. SARMA :—“ Mr. President, Sir, I welcome this measure especially in view of the explanations given by the Hon. Minister in charge of the Bill. That a measure of this kind is absolutely necessary will not be denied by any section of the House. The Trade Disputes Act provides for conciliation and for courts of enquiry but in the Trade Disputes Act, there is no provision for compelling employers or employees to accept any decision; in actual experience, it has been found that at some stage compulsion has got to be exercised. I am against all compulsion. As a trade unionist and a socialist, I am against compulsion; but in the present order of society and in the present state of affairs, it is necessary. I realize that at a certain stage compulsion has got to be exercised and the popular Government certainly has got the right to exercise it in the interests of the community (‘ Hear, hear,’ from Congress Benches). I have had close experience of the working of the Trade Disputes Act for at least nearly 18 years, working as I have been with Mr. Giri, who is now the Minister—where workers have refused to carry out the decisions of the courts of enquiry on some occasions in our province and similarly employers also have been recalcitrant and they have also refused to carry out the decisions of the courts of enquiry. Then when conciliation fails and when the findings of the courts of enquiry are not binding, the Government cannot sit quiet and allow such things. Then there will be a state of industrial anarchy. It is necessary that there must be some power vested in the Government by legislation for enforcing their decisions. During the war,

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Government realized the necessity for a machinery for the settlement of industrial disputes. Before the war, the Government in power never cared for what took place in the industrial world, where there were strikes or lock-outs; but during the war in the interests of defence and in the interests of war, they thought that strikes should be prevented with a view to protect the rights of the workers so that it may not handicap war efforts. So they brought in section 81-A under the Defence of India Act to give power to the Government to lay down and enforce conditions of labour and also to interfere and settle disputes. I must say that Government at no time during the war, during the time the Defence of India enactment was in force have endeavoured to interfere to protect the rights of workers and to protect the rights of employers but they interfered only to put down workers, to put down strikes. During the four or five years that section 81-A was in force, the then Government interfered in only four disputes and I was connected with at least two of those disputes; but Sir, since the present Government took up office, they have interfered not in four or forty disputes or eighty disputes but in a large number of disputes they have used the power vested in them for interfering and settling trade disputes and preserving industrial peace in this country.

“The Defence of India Rules will expire and the Trade Disputes Act gives no power for adjudication and enforcement of the decisions of courts of enquiry or of conciliation boards. Till comprehensive legislation is enacted, Government have got to possess powers to intervene in cases of disputes, especially as such disputes are now growing in number and are more than ever before. I cannot agree with some hon. Members that strikes are declared for spectacular effects and for an ideology. Even there, if employers have their own ideology and have their own prestige and want that labour should always be subservient, workers also have a right to have an ideology. But that is not relevant to the legislation that has to be enacted. A legislation of this kind is absolutely necessary and the Hon. Minister has assured the House that the Trade Disputes Act will be used and conciliation boards will be appointed as also courts of enquiry and the existing machinery for the settlement of trade disputes will be utilized. If they fail and if it is found necessary, special powers taken under this Act will be used. It is not as if for any and every dispute only this measure and not the ordinary powers under the Trade Disputes Act will be used. I am grateful to the Hon. Minister for the assurance that he has under consideration a comprehensive legislation for the settlement of trade disputes and that the operation of this Act will be only for a period of six months. In view of the necessity for such a measure, I feel the House would welcome this measure and give it its wholehearted support.”

* MR. R. W. THEOBALD :—“Mr. President, I rise to speak as a labour leader (laughter). I feel that any employer of labour who is not a leader of labour is indeed a queer fish. I have had the pleasure of working with Indian labourers for the last 31 years and I am very proud to-day to have worked with them; and I am

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especially proud of the men with whom I worked for the last six years in the harbour where there has been for the labourers a certain amount of danger. I may tell the House—it is no longer a secret—that some time after the Bombay explosion, word was brought to our workshops that a ship was on fire and that it contained explosives. You know what happened in Bombay; there was no basis for the rumour that she contained explosives; it was just a rumour; but the fact remains that not one of the labourers who were sent to the ship refused to go there. I am proud to have worked with Indian labour and I realize that in the past they have had quite a raw deal. I do feel, however, that the Hon. Mr. Giri has struck the right note that the ideal thing is for the employer and the employed to get together and settle their difficulties rather than to have outside interference. I would submit to the Hon. Minister that probably 90 per cent of strikes occur on the question of wages or on the question of leave. I believe it has been suggested to the Hon. Minister in the other House that the first thing for Government to tackle is the question of provincial wages for the various trades. I agree with that suggestion and hope that and the Government in between to hold the balance correctly, we shall eliminate the cause for 80 per cent of our troubles.

“ Adverting to the Bill before us, as the great St. Paul said ‘Laws were enacted for the evil-doer and not for the person who intends to keep them’, I personally have no fear of this Bill because I do not think the Minister will be after me for breaking its laws; nor, I trust, do our workers want to break them. The fact remains that after the original Bill lapses, there must be some measure in the hands of the Government in the event of some people wishing to break the law and ruin the industrial peace of the country. My hon. Friend, Mr. Anthoni has pointed out and quite rightly that strikes are a menace to the peace of the Presidency at the moment. I believe that during the war, forces were at work—the end of the war has not altered matters—which have been trying to disintegrate society and to gain their own ends at the expense of other people. This law is necessary to stop that sort of thing. If I may respectfully say so, I rather join issue with the Hon. Minister when he talks about the employer having a long purse and the employed having short ones; on the surface it is quite true. But man’s mind is proverbially of short memory and we have come to the end of a period of tremendous prosperity—perhaps we are still in the period of tremendous prosperity. I think the Hon. Minister must remember that shortly before the war, there was a very bad period of adversity. In any labour legislation that is to be enacted I would urge that the balance is held correctly as between what the workers and employers have got to do. During the last ten years, the workers, quite rightly, have gained many advantages and I am very delighted that they have got them. But as I have said many times at meetings over which I presided, they have to remember that in addition to the advantages and privileges that they have won, they have acquired responsibilities also. As we emerge from this period of prosperity and go down to a trough

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of adversity, this responsibility must be realized if certain industries are to keep their heads above water. The position of the Presidency at the moment is one of being on the top of the crest of a very great wave of prosperity. But those times I am afraid—I hope I am wrong—are going to end. Labour legislation must take into consideration that, however gallant Indian labour had been during the war, it is still very far behind the standard of labour elsewhere—shall we say, in America. I think that where we probably employ three people, they in America employ one and the idea that Indian labour is cheap now no longer holds good. A coolie to-day is paid at the rate of forty rupees a month while before the war he used to get only 12 or 15 rupees. Whereas in the old days you employed ten coolies on a particular job, you have now to start with a higher number. As I said, there is the question of balance between rights and responsibilities that has to be kept in mind and I am sure that the Government will call in consultation both sides to advise them regarding the comprehensive legislation that is to be enacted.”

* SRI M. NARAYANA MENON :—“ President, Sir, I have a strong objection to the Bill in that it does not go far enough. You know Sir, that for the last three months, not a day passed without a strike; in fact our very physical existence was being threatened in a certain manner. It is all due to what may be called communist-labour agitation. So that it is absolutely necessary that there must be some legislation preventing this sort of strikes. When I say that the Bill does not go far enough I mean that it prevents strikes only in certain cases, namely, after the adjudicator has been appointed. The trade disputes are in the main between the employer and the employee, between man and man, or between two legal entities. Just as a dispute between two individuals is decided by a Court of law so as to be binding upon the parties, the dispute between the employer and the employee must be decided by a Court of law or by a tribunal appointed in that behalf. In the alternative powers may be given to the High Court to settle such disputes. The position is the same, whether the employer is a private individual or the Government. If there is any dispute between the employer and the employees they may be called upon to submit their respective memoranda to the Government. The Government then should place before the High Court or the special tribunal as the case may be all the materials relating to the dispute for adjudication. These are matters for the comprehensive legislation promised by the Government.

“ Criticism offered by Dr. John on the provisions of clause 3 of the Bill amounts to this; that it places extraordinary power in the hands of the executive to take any action they chose if in their opinion it is necessary or justified. But, Sir, we are aware of such provisions in the Code of Criminal Procedure, namely, sections 107, 144 and 145 and so on, which enable a Magistrate to pass preliminary orders on the basis of the information submitted to him by the Police or somebody else. Similarly, regarding trade dispute also action may be taken by the Government on

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the basis of materials submitted to or gathered by them. The Government do not propose to act on impulse. According to clause (3) action on the part of the Government is called for only if in their opinion it is necessary or expedient; and opinion, necessity or expediency will of course be based on the materials before them. I am unable to find any objection to clause 3 (a).

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“ Now with regard to clause 3 (b) which enables the Government to make provision ‘ for requiring employers, workmen or both to observe for such period such terms and conditions of employment as may be specified in the order,’ I submit that such a provision is absolutely necessary in order to make the legislation effective. Suppose the Government refer a dispute for conciliation, the Conciliation Board, may take some time to look into the matter. During this time, unless the strike is prevented ‘ for such period . . . specified in the order,’ the strike will go on. Under this sub-clause the Government can impose on the employers and employees some conditions and terms of employment as a conciliatory measure and unless Government does this there will be much scope for the development of the trouble. In order that the Bill when it comes into force may be worked properly and effectively this provision should be in it as a matter of necessity.

“ I would in this connexion refer to sub-clause 3 (c) which enables the Government to make provision ‘ for referring any trade dispute for conciliation or adjudication in the manner provided in the order.’

“ Now, with reference to sub-clause (d) the Government can enforce the decisions of the adjudication authority and thereby can certainly stop the strike. But during the period of enquiry by the adjudicating authority or the Conciliation Board, the Government cannot do it unless sub-clause (b) is in the Act. Moreover sub-clause (e) gives general powers to the Government to take the necessary steps for the purposes of this Act but sub-clause (b) is specific and may be taken as an illustration to sub-clause (e).

“ I submit, Sir, that for the foregoing reasons the objection raised by my hon. Friend Dr. John is not tenable, and that if sub-clause 3 (b) is taken away, the Bill will lose all its strength for effecting the purposes for which it is intended.”

* THE HON. SRI V. V. GIRI :—“ I do not want to add to what has already been stated by every Member with regard to the views expressed by me. So far as Dr. John is concerned, he is more loyal than the king, but the employers and the workers generally welcome this Bill. Dr. John felt that we are taking some weapons of repression into our hands. The history of the Government for the last three months in particular will show that we never exercise our powers like that. I can assure him that the adjudication proceedings that have taken place are really in the interests of the workers and they are bound to be in the interests of the workers generally. At the same time, I wish to assure him

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that when a comprehensive measure is taken up all the points that he has raised will be taken into consideration.

"I am obliged to my hon. Friend, Mr. Narayana Menon, who has explained the implications of clause (b) and that is an answer to what has been stated by my hon. Friend Dr. John. I am also equally obliged to the other hon. Friends, Mr. Anthoni, Mr. Theobald and Mr. Sarma who have put forward constructive suggestions. I assure, Sir, that in the comprehensive Bill that we shall take up, we shall have all these points considered, and I do hope the House will feel that this is really a measure passed in the interests of industrial peace."

The motion was put and carried.

* MR. PRESIDENT :—"We will now take up the clauses, one by one."

Clause 2.

* SRI R. SURYANARAYANA RAO :—"Mr. President, Sir, I move the following amendment :—

'At the end of clause 2, the words "the expression 'undertaking' means any undertaking by way of trade or business" be inserted.'

"Let me at once state that I assure the Hon. Minister that my object in giving notice of this amendment is not either to obstruct the passage of the Bill or to prolong the sessions of this Council but only to assist in making the Bill more effective. Throughout this Bill, wherever the word 'undertaking' has been included, I find no definition of 'undertaking' is given, whereas in a similar Bill which the Hon. Prime Minister is going to introduce later in this House, undertaking has been defined and rightly too. He has defined 'undertaking' as 'an undertaking by way of trade or business.' This definition once found place in the Defence do the handling, unloading and loading in course of transport. My amendment suggests to all the words 'any undertaking by way of trade or business.' This definition once found place in the Defence of India Rule 81-A. Also I would like to suggest this to the Hon. Minister that it would assist him later on. If any dispute goes to a Court of law, the Court may well say that the legislature has not defined 'undertaking' and they may look to the dictionary for the meaning of 'undertaking.' I should like to assist the Hon. Minister to make the clause effective by defining the word 'undertaking' as an undertaking by way of trade or business."

The amendment was duly seconded.

* THE HON. SRI V. V. GIRI :—"I still consider that this is overloading this legislation."

The amendment was put and lost.

Clause 2 was put and carried.

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Clause 3.

* SRI R. SURYANARAYANA RAO :—“ Sir, I move the following amendment :—

‘ In the first proviso to clause 3, after the word “ strike ” wherever it occurs, the word “ lock-out ” shall be added. ’

This amendment also is suggested to see that both the parties concerned in a dispute are treated in an equal manner. The Hon. Minister refers to section 16 of the Trade Disputes Act, 1929, in the proviso. But section 16 does not refer merely to illegal strike but it also refers to illegal lock-out. The proviso will read thus, Sir, if my amendment is accepted.

‘ Provided nothing contained in clause (a) shall apply to a strike or lock-out which is not illegal under section 16 of the Trade Disputes Act, 1929; any trade dispute in furtherance of which any such strike is threatened or has taken place may be referred by the Provincial Government for adjudication. On such reference to adjudication the Government may issue an order prohibiting the strike in connexion with the said dispute. ’

“ It looks as if we are more anxious to deal with strikes than lock-outs. Lock-out is also a weapon that has been used by employers, especially in this City. I will deal with that aspect when I come to another amendment. We know how lock-out was once used in this City to the detriment of the employees. It is our duty to see that whether it is a strike or a lock-out, it receives equal treatment. Whether it is the employer or the employee concerned, both are to be treated alike by Government. With these words, I request the Hon. Minister to accept the amendment. If he had not insisted the proviso making reference to section 16 of the Trade Disputes Act, Sir, perhaps I would not have suggested this amendment. By the proviso as it is, indirectly a certain amount of injustice is done to the employees.

“ Incidentally, Sir, I may say that all this trouble of moving amendments will disappear if a Joint Committee of both the Houses is appointed. Unfortunately, a Bill passes through the Select Committee stage in the other House, goes through the Assembly and then comes here. The only remedy for us seems to be to move amendments in the open House. When such controversial Bills involving principles on which there is likely to be difference of opinion are brought forward, the Government should consider the desirability of appointing a Joint Committee of both the Houses so that the business may be transacted as quickly as possible. This is only by the way, Sir.

“ I request the Hon. Minister to accept this amendment which is meant to assist Government in dealing with employers and employees.”

The amendment was duly seconded.

THE HON. SRI V. V. GIRI :—“ I can only say this, Sir, as I said already, that there is no point in what the hon. Member has said. I give the assurance that these things will be taken into

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consideration in a comprehensive measure. During the Select Committee stage some of these matters came up. Nothing is lost now. All these aspects will be taken into consideration when the comprehensive Bill comes."

The amendment was put and lost.

* SRI R. SURYANARAYANA RAO :—" Sir, I move—

After clause 3, the following shall be added and the clauses shall be renumbered :—

- (i) No person employed in any undertaking shall go on strike in connexion with any trade dispute without having given to his employer within one month, before striking not less than 14 days' previous notice in writing of his intention.
- (ii) No employer of any undertaking shall lock-out his employees in connexion with any trade dispute without having given to his employees within one month before locking-out not less than 14 days' previous notice exhibited prominently in his undertaking of his intention so to do.
- (iii) When any or all of the matters of a trade dispute have been referred to a Court of Inquiry or a Board of Conciliation under the Trade Disputes Act, 1929 (VII of 1929) or for conciliation or adjudication under this Act, no person employed in any undertaking concerned in the dispute shall lock-out or continue to lock-out his employees during the period from the making of the reference until expiry of two months after the conclusion of the proceeding upon such reference.
- (iv) No person shall instigate or incite others to take part in or otherwise act in furtherance of any strike or lock-out which is or when commenced will be in contravention of the provisions of this section."

Sir, this is an addition to the clause to which reference has already been made by my hon. friend, Mr. Anthoni. I may have to state the circumstances which compelled me to think of giving notice of this amendment. When a rule was made in 1942 by the Government of India under the Defence of India Rules, the rule only prohibited strikes without notice. But, there was no reference to lock-out. When a certain firm in this City locked-out a large number of persons without notice, we approached the Government, and they said they could do nothing. The House will be surprised to learn that it took three years to have the word 'lock-out' also included in this rule, in 1945, after it was omitted in 1942, though at the time the local Government was also convinced that the omission did injustice to the workers. So, Sir, I have included lock-out also, in sub-clause (ii). As soon as 30th September 1946 is over, if this and the subsequent clauses are not put into this Bill,

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strikes and lock-outs can be declared without any notice. The whole business in an industry or even in an essential service can be brought to a stand-still. Is that the intention of the Government, Sir? Should not the employees and employers be required to give some days' notice? I am not speaking on behalf of labour so much as in the interests of the community which will be affected by strike or lock-outs without notice. If the conservancy staff in the City of Madras had struck work without notice, what would have been the fate of this City? This notice period gives time for Government to intervene and bring the parties together and to effect, if possible, an amicable settlement, and if a strike takes place at all, it will take place only after the effort of everybody has failed to bring about a settlement. That is the purpose of that sub-clause."

* MR. PRESIDENT :—" On a point of information. Is not notice provided for in any other enactments? "

* SRI R. SURYANARAYANA RAO :—" No, Sir; it is provided only in the case of essential services. Recently I had occasion to advise an undertaking not to declare a lock-out but to observe the rule."

* DR. V. K. JOHN :—" On a point of information, Sir. The period of notice relates to public utility services."

* SRI R. SURYANARAYANA RAO :—" The question still arises what represents public utility services. I know employees in business concerns cannot go on strike without proper notice. But in the case of industries, sometime lock-outs also are declared without caring for the interests of the community. That is why, Sir, I suggest this 14 days' previous notice should also be given when a lock-out is declared. All this wording is not mine. It is the wording of the Government of India in Rule 81-A of the Defence of India Rules. 'No person shall instigate or incite others to take part in, or otherwise act in furtherance of any strike or lock-out which is or when commenced will be in contravention of the provisions of this section.' These are meant in the interests of the industrialists and the interests of the employees. I do not know how the Hon. Minister who is usually so careful missed this, unless there is some special purpose. The purpose of this Bill is nullified unless this section is introduced."

The amendment was duly seconded.

THE HON. SRI V. V. GIRI :—" I repeat the assurance that the aspect referred to by my hon. friend in regard to strikes will be considered. I have made a promise in another place and I make that promise here that that aspect will be considered. The hon. Member said that it does not refer to lock-out. If he refers to section 3 (a), he will find that . . . "

* SRI R. SURYANARAYANA RAO :—" Rule 81-A when first promulgated made no provision for lock-out and we agitated. . . . "

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* THE HON. SRI V. V. GIRI :—“ Anyway with my assurance, I request the hon. Member to withdraw.”

* SRI R. SURYANARAYANA RAO :—“ In any case, the fate of the amendment is the same. So I withdraw.”

The amendment was, by leave, withdrawn.

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ Mr. President, Sir, my amendment :—

‘ After clause 3, the following shall be added and the clauses shall be renumbered :—

“ (1) No person employed in any undertaking shall go on strike in connexion with any trade dispute without having given to his employer within one month before striking not less than 14 days’ previous notice in writing of his intention provided that in the case of tanneries not less than 45 days’ previous notice shall be given within two months before striking.” ’

“ My amendment arises out of the amendment given notice of by Mr. Suryanarayana Rao. This House is aware that, so far as tanneries are concerned, if a hide or skin is soaked to-day, it will take 45 days to come out after the completion of the process of tanning. If it is removed in the intervening period, it will be spoiled and become useless. It is for this purpose that I have said that in the case of tanneries there must be not less than 45 days’ previous notice. In view of the fact that Mr. Suryanarayana Rao’s amendment has not been pressed, I do not want to press my amendment, and I hope the Hon. Minister will make necessary provision when he brings forward the comprehensive Bill.”

Clauses 3, 4, 5, 6, 7, 8, 9 and 1 and the preamble were put and carried.

* THE HON. SRI V. V. GIRI :—“ I beg to move, Sir—
‘ that the Bill be passed into law.’ ”

The motion was put and carried.

* MR. PRESIDENT :—“ Some representations were made to me by hon. Members that there was not sufficient time to study the Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1946, as passed by the Assembly. If that is the opinion still obtaining in the House, I would like to know whether members would have it to-morrow.”

THE HON. SRI T. PRAKASAM :—“ No objection.”

* MR. PRESIDENT :—“ The Essential Articles Bill will go on to-morrow.

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“ I have to make the following announcement. I have received the following messages from the Hon. the Speaker of the Legislative Assembly :—

‘ In accordance with Rule 101 of the Madras Assembly Rules, I have the honour to intimate that the amendment made by the Council in the Madras Tenants and Ryots Protection Bill, 1946 (L.A. Bill No. 6 of 1946), was taken into consideration by the Assembly at its meeting held on the 11th September 1946, and that the Assembly has agreed to the amendment.

‘ In accordance with Rule 94 of the Madras Assembly Rules I transmit a copy of the Madras Buildings (Lease and Rent Control) Bill, 1946 (L.A. Bill No. 4 of 1946) as passed by the Assembly on the 11th September 1946 and signed by me for the concurrence of the Council.

‘ In accordance with Rule 94 of the Madras Assembly Rules I transmit a copy of the Madras Preservation of Private Forests Bill, 1946 (L.A. Bill No. 7 of 1946) as passed by Assembly on the 11th September 1946 and signed by me for the concurrence of the Council.’ ”

The House then adjourned to meet again at 11 a.m. on Friday, the 13th September 1946.

III.—PAPERS LAID ON THE TABLE OF THE HOUSE.

1. *The Madras Essential Articles Control and Requisitioning (Temporary Powers) Bill, 1946 (L.A. Bill No. 2 of 1946) as passed by the Assembly and received therefrom in the Council.*

2. *Notification issued with G.O. Ms. No. 1981, Home, dated 5th July 1946, making certain amendments to the Motor Vehicles Rules, 1940, published with Home Department Notification No. 357, dated 29th March 1940, as subsequently amended.*

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TRUTH ALONE TRIUMPHS